

Article - Business Regulation

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§4.5–711.

(a) (1) After the Division pays a claim from the Guaranty Fund:

(i) the Division is subrogated to all rights of the claimant in the claim up to the amount paid;

(ii) the claimant shall assign to the Division all rights of the claimant in the claim up to the amount paid; and

(iii) the Division has a right to reimbursement of the Guaranty Fund by the registrant whom the Division finds responsible for the act or omission giving rise to the claim for:

1. the amount paid from the Guaranty Fund; and

2. interest on that amount at a rate determined by the Division so as not to exceed the legal rate of interest on a judgment in place at the time the claim is approved.

(2) All money that the Division recovers on a claim shall be deposited in the Guaranty Fund.

(b) If, within 60 days after the Division gives notice, a registrant on whose account a claim was paid does not reimburse the Guaranty Fund in full, the Division may sue the registrant in a court of competent jurisdiction for the unreimbursed amount.

(c) The Division is entitled to a judgment for the unreimbursed amount if the Division proves that:

(1) a claim was paid from the Guaranty Fund on account of the registrant;

(2) the registrant has not reimbursed the Guaranty Fund in full;

(3) the registrant was given notice and an opportunity to participate in a hearing on the claim before the Division; and

(4) (i) the Division directed payment based on a final judgment of a court of competent jurisdiction or a final award in arbitration; or

(ii) the decision or order of the Division is final in accordance with Title 10, Subtitle 2 of the State Government Article and there is no pending appeal.

(d) The Division may refer to the Central Collection Unit for collection under §§ 13–912 through 13–919 of the Tax – General Article a debt owed to the Division by a registrant on whose account a claim was paid from the Guaranty Fund and who is at least 12 months behind in reimbursement payments to the Guaranty Fund.

(e) For the purpose of excepting to a discharge of a registrant under federal bankruptcy law, the Division is a creditor of the registrant for the amount paid from the Guaranty Fund.

(f) (1) (i) If a person liable for reimbursing the Guaranty Fund under this section receives a demand for reimbursement and fails to reimburse the Guaranty Fund, the reimbursement amount and any accrued interest or costs are a lien in favor of the State on any real property of the person if the lien is recorded and indexed as provided in this subsection.

(ii) Interest shall continue at the rate of interest on a judgment as provided in § 11–107(a) of the Courts Article until the full amount due the Guaranty Fund is paid.

(2) The lien in favor of the State created by this subsection may not attach to specific property until the State Central Collection Unit records written notice of the lien in the office of the clerk of the court for the county in which the property subject to the lien or any part of the property is located.

(3) The lien in favor of the State created by this subsection does not have priority as to any specific property over any person who is a lienholder of record at the time the notice required under paragraph (2) of this subsection is recorded.

(4) The notice required under paragraph (2) of this subsection shall contain:

(i) the name and address of the person against whose property the lien exists;

(ii) the amount of the lien;

(iii) a description of or reference to the property subject to the lien; and

(iv) the date the Guaranty Fund paid the claim giving rise to the lien.

(5) On presentation of a release of any lien in favor of the State created by this subsection, the clerk of the court in which the lien is recorded and indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(6) The notice required under paragraph (2) of this subsection and any release filed under paragraph (5) of this subsection shall be indexed with the judgment lien records maintained by the office of the clerk of the court where the notice is recorded.

(7) The clerk may collect a reasonable fee for recording and indexing each notice of lien or release of any lien under this subsection.

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